

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

JOSEPH TELLES, SR., MICHAEL TELLES,  
Individually, and as parent and next best friend of  
OLIVIA TELLES and JACOB TELLES,

Plaintiffs,

vs.

Cause No. 1:15-cv-992

METLIFE AUTO & HOME,  
METROPOLITAN PROPERTY AND  
CASUALTY INSURANCE COMPANY,  
and DOES 1-5,

Defendants.

**NOTICE OF REMOVAL TO THE  
UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

COME NOW Defendants, MetLife Auto & Home (a trade name and not a legal entity) and Metropolitan Property and Casualty Insurance Company, (“Defendant”), by and through its attorneys of record, Butt Thornton & Baehr PC (James H. Johansen and Amy E. Headrick), and hereby files its Notice of Removal respectfully petitioning the Court, pursuant to, for the affirmation of removal of this action from the Second Judicial District Court of Bernalillo County, State of New Mexico, to the United States District Court for the District of New Mexico on the following grounds:

1. Plaintiffs filed this civil action against Defendant in the Second Judicial District Court, County of Bernalillo, State of New Mexico, Case No. D-202-CV-2015-07476. Pursuant to D.N.M. LR-CIV 81.1, a copy of the Complaint, along with copies of all records and proceedings are attached hereto as **Exhibit A**.

2. According to the Complaint, filed September 23, 2015, Plaintiffs are citizens and residents of the County of Bernalillo, State of New Mexico. [Complaint at ¶¶1-3].

3. MetLife Auto and Home is a trade name and not a legal entity, and thus has no principal place of business or state of incorporation.

4. Metropolitan Property and Casualty Insurance Company is a foreign corporation, incorporated in the state of Rhode Island with its principal place of business in the state of Rhode Island, thus Metropolitan Property and Casualty Insurance Company is a citizen of the state of Rhode Island for the purposes of diversity citizenship under 28 U.S.C. § 1332.

5. Defendants Does 1 through 5 are fictitious names and are to be disregarded for diversity purposes, pursuant to 28 U.S.C. § 1441(b)

6. Defendant Metropolitan Property and Casualty Insurance Company was served with the Complaint in this matter, through C T Corporation System, effective October 7, 2015.

7. Complete diversity of citizenship exists between Plaintiffs and Defendant.

8. The Complaint alleges five counts against Defendant, including (1) claim for underinsured motorist benefits; (2) declaratory judgment regarding underinsured motorist benefits coverage; (3) specific performance for underinsured motorist claim; (4) breach of contract; (5) negligent misrepresentation; and (6) unjust enrichment. [Complaint at ¶¶29-56].

9. Plaintiffs offered to settle all claims in this case for \$127,803.30 on February 4, 2014, attached hereto as **Exhibit B**.

10. Although Defendant does not admit Plaintiffs have been damaged in any amount as the result of the actions of Defendant, the amount in controversy of Plaintiffs' claim as indicated by their offer of settlement exceeds \$75,000.00. Therefore, the amount in controversy requirement of this Court is satisfied.

11. Plaintiffs' Complaint is a civil action over which this Court has jurisdiction pursuant to 28 U.S.C. §1332 and which is removable by Defendant under the provisions of 28 U.S.C. §1441 in that:

a. The matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs; and

b. The matter in controversy is between citizens of different states.

12. This Notice of Removal was filed with this Court within thirty (30) days after Plaintiffs' Complaint was served.

13. Defendant, immediately upon the filing of this original Notice of Removal, gave written notice of the filing as required by 28 U.S.C. §1446 (D) and filed a copy thereof with the Clerk of the Second Judicial District Court, County of Bernalillo, State of New Mexico, the Court from which this action is removed.

14. This Notice of Removal is signed pursuant to Fed. R. Civ. P. 11.

WHEREFORE, Defendant Metropolitan Property and Casualty Insurance Company requests that the above-entitled action remain in this United States District Court for the District of New Mexico.

Respectfully Submitted,

BUTT THORNTON & BAEHR PC

/s/ James H. Johansen

James H. Johansen

Amy E. Headrick

*Attorneys for Defendant, Metropolitan  
Property and Casualty Insurance Company*

P.O. Box 3170

Albuquerque, NM 87190-3170

Telephone: (505) 884-0777

I hereby certify that on the 3<sup>rd</sup> day of November, 2015,  
I filed the foregoing electronically through the  
CM/ECF system, which caused the following  
counsel to be served by electronic means, as more fully  
reflected on the Notice of Electronic filing:

Linda J. Rios  
RIOS LAW FIRM  
PO Box 3398  
Albuquerque, NM 87190-3398  
Telephone: (505) 232-2298  
[linda.rios@lrioslaw.com](mailto:linda.rios@lrioslaw.com)

/s/ James H. Johansen  
James H. Johansen